

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

RECEIVED

JUN 17 1996

In the Matter of)
)
The Development of Operational,)
Technical, and Spectrum Requirements)
for Meeting Federal, State, and Local)
Public Safety Agency Communications)
Requirements Through the Year 2010)
)
Cellular Priority Access for)
National Security and Emergency)
Preparedness Telecommunications)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

WT Docket No. 96-86

DOCKET FILE COPY ORIGINAL

RM-_____

To: The Commission

**COMMENTS OF UTC
ON PETITION FOR RULEMAKING**

UTC, The Telecommunications Association (UTC), hereby submits its comments on the Petition for Rulemaking, filed on October 19, 1995, by the National Communications System (NCS) requesting amendment of the FCC's Rules to establish a "Cellular Priority Access Service" (CPAS).¹

¹ Comments on the NCS petition were solicited for filing in this docket by Public Notice, DA 96-604, released April 18, 1996. By Public Notice, DA 96-884, released May 31, 1996, the comment and reply comment dates were extended to June 17 and July 16, 1996, respectively.

Vol. of Copies rec'd 014
DATE CODE

UTC is the national representative on communications matters for the nation's electric, gas and water utilities and natural gas pipelines. Over 1,000 such entities are members of UTC, ranging in size from large combination electric-gas-water utilities serving millions of customers, to smaller rural electric cooperatives and water districts serving only a few thousand customers each. All utilities depend upon reliable and secure communications to assist them in carrying out their public service obligations. Although utilities have generally found private communications systems to offer the most reliable service, utilities do make use of the public telecommunications network where and when appropriate. UTC is therefore interested in any provisions that would provide greater assurance as to the availability and reliability of commercial telecommunications services.

UTC agrees with NCS that cellular radiotelephone service cannot be relied upon by those with National Security/Emergency Preparedness (NS/EP) functions given the state of the technology, the limited number of channels available in any given area, the strong demands placed on these channels when there is a failure of the wireline communications network, and the statutory provisions banning unlawful discrimination or undue preference in the rendering of common carrier communications service.² NCS has recommended creation of CPAS as a means of eliminating the statutory barriers to priority access to cellular radio channels for NS/EP functions. NCS acknowledges that additional work must be performed on technical standards and implementation, and that

² NCS Petition, pp. 3-5.

no service provider is currently in a position to provide the priority access described in the NCS petition.³

Many utilities and pipelines are unable to routinely use the services of commercial carriers due to the significant operational and cost considerations that would be involved in entering "roaming" agreements with each of the multiple carriers covering their expansive operating areas. These operational considerations are even more important during times of emergency or when the utility is attempting to restore electric, gas or water service to the public. Particularly in the case of cellular telephone service, network architectures are not designed for dispatch-type operations needed by utilities for close and rapid coordination of service crews. Commercial networks are typically designed with only limited back-up power supplies, and restoration of both public telecommunications services and energy services could be compromised if the energy utility is dependent on the public telecommunications networks for its communications requirements during service restoration.⁴

In many respects, the CPAS system would attempt to duplicate in commercial networks the priority access features that are already employed by utilities who have installed their own proprietary networks. Indeed, because a proprietary network is controlled exclusively by the utility, the utility has complete access to channels and is not placed in the position of having to contend for channels with other, lower priority users.

³ NCS Petition, p. 5.

⁴ In a 1990 Report by the Energy Task Force of the National Security Telecommunications Advisory Committee, it was noted that because electric utilities have installed private communications systems, they are able to restore electric service during disruption of the public telecommunications networks, whereas the public telecommunications networks are highly dependent on the availability of commercial power.

In addition, with some of the newer trunked radio systems, the licensee can make priority channel assignments even among work groups or individual users on the system.

Nevertheless, UTC finds merit in the proposal to afford cellular telephone licensees the flexibility to lawfully provide utilities and other public safety/public service organizations preferential channel access where use of commercial services are necessary or appropriate. If carriers are able to develop and deploy, in a cost-effective and reliable manner, the technology to implement this service, the FCC should remove any legal impediments to their ability to do so.⁵

From the description of CPAS in the NCS petition, it does not appear that CPAS will afford priority channel access for cellular calls placed to authorized service users; *e.g.*, calls initiated from the land-line telephone network or from other wireless networks. UTC recommends that the FCC clarify whether CPAS would provide priority channel access for calls placed to authorized service users. NCS also indicates that CPAS would not provide for preemption of connected calls. It is important that potential users of CPAS fully understand the benefits as well as any limitations on this service so that service users are not given a false sense of security.

UTC supports the proposal to afford priority status for state and local interests on an equal basis with federal authorities. UTC agrees with NCS that state and local agents,

⁵ Although UTC is pleased that the FCC is moving forward on the NCS petition, UTC is concerned by the FCC's decision to consolidate this petition with its ongoing rulemaking regarding future spectrum needs for public safety communications (WT Docket No. 96-86). To the extent this procedure will expedite the adoption of final rules on the NCS petition, UTC supports this approach. However, UTC disagrees with the suggestion or even implication that adoption of CPAS will obviate or lessen the need for the FCC to allocate spectrum to specifically meet public safety/public service communications requirements.

whether government or private sector, are usually the first on the scene of a disaster.

Utilities or pipelines, for example, are often required to respond and remove hazardous situations before further recovery efforts can proceed; *e.g.*, to close-off natural gas lines at the scene of a fire, or to remove downed electric lines on roadways.

UTC recommends that, at least with respect to public utility services, that the priority levels suggested in the NCS petition be revised to conform with the priorities adopted as part of the Telecommunications Service Priority (TSP) system. Under the TSP system, public utility services qualify under the subcategory “Public Health, Safety, and Maintenance of Law and Order,” and therefore qualify for a TSP priority up to level 3.

UTC recommends that public utility services be included in CPAS priority level 3 consistent with the treatment to be afforded these services under the TSP system.


UTC further notes that public utilities are not specifically referenced in the description for Priority 2, however the proposed criteria for Priority 2 would include certain utility or pipeline personnel; *i.e.*, those personnel “responsible for ensuring the viability or reconstruction of the basic infrastructure in an emergency area.” Restoration of electric, gas or water supply systems would meet these criteria. UTC therefore recommends that among the examples for CPAS Priority 2 should be “public utility personnel responsible for coordinating initial damage assessment and service restoration.”⁶

⁶ UTC notes with interest the proposal that a limited number of cellular service technicians essential to restoring the cellular networks would qualify for Priority 1. UTC submits that it is not necessary to provide priority levels for the licensee’s own users. Under the TSP program, for example, control services and orderwires are excluded from TSP and may be restored by the carrier irrespective of any other priority assignments. The FCC noted that “[i]t is not clear that carriers’ internal operations are the proper subject of TSP since they are not services offered to users and are therefore not subject to all provisions of Title II.” Under the same reasoning, it would not be necessary or appropriate to compel a carrier’s own

WHEREFORE, THE PREMISES CONSIDERED, UTC urges the FCC to act favorably on the petition for rulemaking, subject to the comments and concerns raised herein.

UTC

By:


Jeffrey L. Sheldon
General Counsel

UTC
1140 Connecticut Ave., NW
Suite 1140
Washington, DC 20036
(202) 872-0030

Dated: June 17, 1996

users to obtain priority levels under CPAS if the carrier elects to offer CPAS to its customers. Such uses of the system should be considered "internal uses" not subject to Title II of the Communications Act.